

ARTICLE APPEARED
ON PAGE 1-35

THE NEW YORK TIMES
18 JULY 1982

Hiss's Latest Appeal Denied by Federal Judge

By ROBERT D. McFADDEN

Alger Hiss's long legal fight to overturn his 1950 conviction on espionage-related perjury charges has suffered another setback with a rejection, by a Federal judge in Manhattan, of Mr. Hiss's latest petition for a new trial.

In an 82-page decision handed down Thursday, Judge Richard Owen of Federal District Court ruled that Mr. Hiss had not been denied a fair trial, as Mr. Hiss had contended. Mr. Hiss had filed an appeal in 1978 with what he called new information from 150 Government documents obtained under the Freedom of Information Act.

"The trial was a fair one by any standard, and I am presented with nothing requiring a hearing on any issue," Judge Owen declared. "The jury verdict rendered in 1950 was amply supported by the evidence — the most damaging aspects of which were admitted by Hiss — and nothing presented in these papers, extensive though they are, places the verdict under any cloud."

An Appeal Is Planned

Mr. Hiss, who is 77 years old and a resident of Manhattan, was not available for comment on the decision yesterday, but his son Anthony replied "of course" when asked if his father intended to appeal the ruling.

In one of the most controversial and publicized trials of an era of anti-Communist fervor in the United States, Mr. Hiss was convicted of lying to a grand jury in denying that he had given classified documents to a former Communist Party member, Whittaker Chambers, to be passed on to the Soviet Union in 1937 and 1938.

In 1948 hearings before the House Un-American Activities Committee, Mr. Chambers, an editor of Time magazine who had become disillusioned and quit the Communist Party, named Mr. Hiss

as a Communist, a charge Mr. Hiss denied. The case helped propel a young Congressman, Richard M. Nixon, to political prominence and election as Vice President in 1952.

Sentenced to five years in prison, Mr. Hiss served 44 months. The conviction destroyed what had been a brilliant career for the former State Department official, who had been an adviser to President Franklin D. Roosevelt and Secretary General of the San Francisco United Nations Conference.

Continued Controversy

In the years since, the case has given rise to numerous books, articles and continued controversy, and Mr. Hiss has made numerous unsuccessful appeals in an attempt to clear his name.

In the latest appeal, he used documents obtained under the Freedom of Information Act to assert various claims of prosecutorial misconduct that, he contended, had denied him a fair trial. Among the claims were the following:

¶ That he had been denied effective counsel because of improper contacts between the prosecution and a defense investigator.

¶ That three statements by Mr. Chambers had been suppressed by the prosecution.

¶ That the prosecution had suppressed information about a typewriter that had been used to type the stolen documents.

¶ That the prosecution had knowingly used perjured testimony by two witnesses.

¶ That the prosecutor had used an improper argument in his summation.

Judge Owen dismissed all the contentions. He noted that the contacts between the prosecution and the investigator "could not have had the slightest impact on the outcome" of the trial. The statements by Mr. Chambers, he said, were insignificant, irrelevant or not suppressed.

'Puzzling' Aspects

The judge noted that Mr. Hiss's contentions about the typewriter had to do with its origins. He acknowledged there were "puzzling" aspects about this, but said Mr. Hiss had conceded that the stolen documents were typed on it and that "consequently, any evidence as to its origins was irrelevant."